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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Australia*, Austria, Belgium*, Canada, Germany, Ireland, Japan, Netherlands, New Zealand*, Norway*, Romania*, Sweden*: draft resolution

1997/... Situation of human rights in Cambodia

The Commission on Human Rights,

Guided by the purposes and principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict signed in Paris on 23 October 1991, including Part III relating to human rights,

Recalling Commission on Human Rights resolution 1996/54 of 19 April 1996, General Assembly resolution 51/98 of 12 December 1996, and previous relevant resolutions, including Commission on Human Rights resolution 1993/6 of 19 February 1993, in which it requested the Secretary-General to appoint a special representative in Cambodia, and the subsequent appointment of a special representative,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Bearing in mind the role and responsibilities of the United Nations and the international community in the process of the rehabilitation and reconstruction of Cambodia,

Recognizing that the tragic recent history of Cambodia requires special measures to ensure the promotion and protection of the human rights of all people in Cambodia and the non-return to the policies and practices of the past, as stipulated in the Agreement signed in Paris on 23 October 1991,

Desiring that the United Nations respond positively, within existing resources, to assist efforts to investigate Cambodia's tragic recent history, including responsibility for past international crimes, such as acts of genocide and crimes against humanity,

Commending the ongoing efforts of the office of the Centre for Human Rights in Cambodia in supporting and assisting the Government of Cambodia, as well as assisting non-governmental organizations and others involved in the promotion and protection of human rights in cooperation with the Government of Cambodia,

Welcoming and encouraging the efforts of individuals, non-governmental organizations, Governments and international organizations involved in human rights activities in Cambodia,

Welcoming the understanding reached between the Special Envoy of the Secretary-General and the Government of Cambodia in May 1995 regarding increased consultations between the Centre for Human Rights and the Government of Cambodia,

1. Requests the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the Centre for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources, from within existing resources, for the enhanced functioning of the operational presence in Cambodia of the Centre for Human Rights;

2. Welcomes the report of the Secretary-General on the role of the Centre for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights (E/CN.4/1997/84);

3. Also welcomes the continuing role of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights in Cambodia and the signing of a memorandum of understanding with

the Government of Cambodia in March 1996 to allow the office of the Centre for Human Rights to continue operating for the next two years and to maintain its technical cooperation programmes;

4. Takes note with appreciation of the report of the Special Representative on the situation of human rights in Cambodia (E/CN.4/1997/85), in particular his concerns about the rule of law, the independence of the judiciary, the problem of impunity, the ill-treatment of prisoners, labour rights, child prostitution and trafficking, freedom of expression and the promotion of an effective functioning multi-party democracy;

5. Welcomes the efforts made by the Government of Cambodia to promote and protect human rights, especially in establishing a mechanism through its National Assembly Commission on Human Rights and Receipt of Complaints for investigating alleged human rights violations, the adoption of the new labour law, and in the area of human rights education;

6. Notes with concern the lack of response by the Government of Cambodia to several of the recommendations contained in the Special Representative's previous report and urges that it respond as soon as possible, and requests the Special Representative, in collaboration with the office in Cambodia of the Centre for Human Rights, to continue his evaluation of the extent to which the recommendations made by the Special Representative in his report, and those contained in his previous report, are followed up and implemented;

7. Requests the Secretary-General to provide all necessary resources, from within the regular budget of the United Nations, to enable the Special Representative to continue to fulfil his tasks expeditiously;

8. Notes with serious concern the Special Representative's strong criticism of the system of justice in Cambodia, urges the Government of Cambodia to increase its efforts to create a functioning and impartial system of justice, including convening the Supreme Council of Magistracy, and, in the area of prisons, strongly urges the Government of Cambodia to institute a system to guarantee the essential sustenance of prisoners and to continue its efforts to improve the physical environment of prisons;

9. Expresses serious concern at the comments made by the Special Representative concerning the continuing problem of impunity whereby the courts are reluctant or unable to charge members of the military, police and other security forces with serious criminal offences, and encourages the

Government of Cambodia, as a matter of critical and urgent priority, to address the problem of impunity, including the repeal of article 51 of the 1994 Law on Civil Servants which in effect places the military and police and other government officials above the principle of equality before the law;

10. Expresses grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, including rape, illegal arrest and detention, as detailed in the reports of the Special Representative and his predecessor, and calls upon the Government of Cambodia to prosecute, in accordance with due process of the law and international standards relating to human rights, all those who have perpetrated human rights violations;

11. Welcomes the efforts by the Government of Cambodia to promote peace, strongly urges the remaining Khmer Rouge to cease fighting, reiterates concern about serious abuses committed by remaining Khmer Rouge, including the taking and killing of hostages, and demands that any hostages be released immediately;

12. Requests the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the Centre for Human Rights, to examine any request by Cambodia for assistance in responding to past serious violations of Cambodian and international law as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability;

13. Calls upon the Government of Cambodia to investigate cases of violence and intimidation directed at political parties and their supporters, as well as against media personnel and offices, and to bring to justice those responsible;

14. Strongly condemns the violence in Phnom Penh on 30 March 1997 on participants of a peaceful and lawful opposition rally exercising their democratic rights and which resulted in numerous deaths and injuries, and calls upon the Government of Cambodia to take immediate and effective measures to uphold the rule of law in order to prevent the recurrence of such an outrage and to bring the perpetrators to justice;

15. Notes that communal elections are due to be held in 1997 and National Assembly elections in 1998, and strongly urges the Government of Cambodia to promote and uphold the effective functioning of multi-party democracy, including the right to form political parties, stand for election,

take part freely in a representative Government and freedom of expression, in accordance with the principles set out in paragraphs 2 and 4 of annex 5 to the Agreement signed in Paris on 23 October 1991;

16. Welcomes the proposed measures outlined by the Government of Cambodia in its comments (A/51/453/Add.1) on the report of the Secretary-General to the General Assembly at its fifty-first session (A/51/453) to ensure that the forthcoming communal and national elections are free and fair, and emphasizes the need for the legislative framework for the elections to be agreed upon and adopted by the National Assembly, for the security forces to remain neutral during the election campaign, for free and equal access to the media, for the individual vote to be confidential, for local and international observers to be welcomed, and for all parties to agree to accept the outcome;

17. Strongly encourages the Government of Cambodia to establish an independent body to supervise the holding of the elections, to ensure that the elections are free and fair and to ensure that the Constitutional Council will be convened in order to resolve election disputes;

18. Requests the Secretary-General to consider favourably, within existing United Nations resources, any request from the Government of Cambodia for assistance with the holding of the elections in Cambodia;

19. Commends the Government of Cambodia for its constructive approach to the inclusion of Cambodian human rights non-governmental organizations in the rehabilitation and reconstruction of Cambodia, and recommends that their skills be drawn upon to assist in ensuring that the forthcoming elections are free and fair;

20. Urges the Government of Cambodia to give priority attention to combating child prostitution and trafficking and, in this connection, to work with the office in Cambodia of the Centre for Human Rights, the United Nations Children's Fund and non-governmental organizations to develop an action plan;

21. Calls upon the Government of Cambodia to ensure the full observance of human rights for all persons within its jurisdiction in accordance with the International Covenants on Human Rights and other human rights instruments to which Cambodia is a party;

22. Recognizes the seriousness with which the Government of Cambodia has approached the preparation of its initial reports to the relevant treaty bodies and welcomes the submission of Cambodia's second report to the

Committee on the Elimination of Racial Discrimination (CERD/C/292/Add.2), and encourages the Government to continue its efforts to meet its reporting obligations under international human rights instruments, drawing on the assistance of the office in Cambodia of the Centre for Human Rights;

23. Encourages the Government of Cambodia to request the Centre for Human Rights to provide advice and technical assistance with respect to the creation of an independent national institution for the promotion and protection of human rights;

24. Notes with appreciation the use by the Secretary-General of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia to finance the programme of activities of the office in Cambodia of the Centre for Human Rights as defined in resolutions of the General Assembly and the Commission on Human Rights, and invites Governments, intergovernmental and non-governmental organizations, foundations and individuals to consider contributing funds to the Trust Fund;

25. Requests the Centre for Human Rights, in cooperation with the relevant specialized agencies and development programmes, to develop and implement programmes, with the consent and cooperation of the Government of Cambodia, in the priority areas identified by the Special Representative, paying particular attention to vulnerable groups, including women, children, disabled persons and minorities;

26. Expresses grave concern at the devastating consequences and destabilizing effects of the indiscriminate use of anti-personnel landmines on Cambodian society, encourages the Government of Cambodia to continue its support and efforts for the removal of these mines, and urges the Government of Cambodia to ban all anti-personnel landmines;

27. Requests the Secretary-General to report to the Commission on Human Rights at its fifty-fourth session on the role of the Centre for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative on matters within his mandate;

28. Decides to continue its consideration of the situation of human rights in Cambodia at its fifty-fourth session, under the agenda item entitled "Advisory services in the field of human rights".